REMARKS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the remarks herewith, which place the application into condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 1-40 are pending in this application. The claims were not amended, thus no new matter is added.

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. The remarks herein are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, the remarks are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. 35 U.S.C. §103(a) REJECTION

Claims 1-40 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,172,463 to Cutler in view of U.S. Patent No. 5,767,625 to Shrader. The rejection is traversed. None of the cited documents, either alone or in combination, teaches, suggests or motivates a skilled artisan to practice the instant invention.

Applicants' invention is directed to a vacuum chamber or a vacuum tank with ion beam bursts traversing the chamber in a longitudinal direction and an RF-electron beam traversing the chamber in a transversal direction. More specifically, the RF-electron beam traverses the chamber off-set relative to the container axis. Cutler fails to teach or suggest an RF-electron beam traversing a chamber off-set to the container axis. Further Cutler neither teaches nor

suggests the use of an electron beam source to supply high frequency power for ion beam acceleration.

Shrader does not remedy the inherent deficiencies in Cutler. Shrader relates to a standard accelerator for generating and accelerating electron bunches coupled to a resonator and outputted by an output loop within the resonator toward a coaxial outlet connector. Like Cutler, however, Shrader fails to teach or suggest a RF-electron beam traversing a chamber off-set to the container axis. Shrader also fails to teach or suggest a coaxial outlet connector or an output loop to accelerate the ion beam bursts.

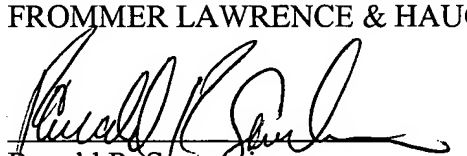
It is well-settled that "obvious to try" is not the standard upon which an obviousness rejection should be based. *See In re Fine.* And as "obvious to try" would be the only standard that would lend the Section 103 rejection any viability, the rejection must fail as a matter of law. Therefore, applying the law to the instant facts, the rejection is fatally defective and should be removed.

Consequently, reconsideration and withdrawal of the Section 103 rejection are believed to be in order and such actions are respectfully requested.

CONCLUSION

In view of the foregoing remarks, it is believed that the claims in this application are in condition for allowance. Early and favorable consideration thereof is solicited.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By: 

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